

**UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	John L. Smith, Debtor	: Chapter 13 : Case No. 23-12838-mdc
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Delaware County Tax Claim Bureau, Movant		:
vs.		:
John L. Smith and , Ivi Linn Robinson Respondents		:
and		:
Kenneth E. West, Trustee		:
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**STIPULATION IN SETTLEMENT OF MOTION FOR RELIEF FROM THE
 AUTOMATIC STAY REGARDING
3805 STATE ROAD, UPPER DARBY, PENNSYLVANIA**

It is hereby stipulated by and between the Delaware County Tax Claim Bureau, John L. Smith, Debtor, and Ivi Linn Robinson, non-filing co-owner, that the Motion for Relief filed by Movant regarding 3805 State Road, Upper Darby Township, Delaware County, Pennsylvania bearing folio number 16-10-01561-00 is resolved as follows:

1. The Automatic Stay provided by § 362 of the Bankruptcy Code shall remain applicable to 3805 State Road, Upper Darby Township, Delaware County, Pennsylvania bearing folio number 16-10-01561-00, (hereinafter referred to as the "subject property") pursuant to the terms and conditions set forth herein.
2. The parties agree that the total post-petition arrearage on the subject property consists of delinquent taxes for the tax years 2023 in the amount of \$7,306.56 as of March 2024. The cost for filing this Motion is \$199.00. There are also 2023 real estate taxes due on an additional lot known as 0 State Road, Upper Darby Township, bearing folio number 16-10-01560-00 in the amount of \$1,627.58 as of March 2024.
 - a. This does not include the ongoing interest of nine percent (9%) that is added to delinquent real estate taxes per statute.
 - b. There is a fee of \$15.00 assessed for each tax year that is in a payment agreement with Movant. This fee is added to each year in a payment agreement after the

- approval of this Stipulation.
- c. **The Debtor will continue to pay the amount due for all taxes due in 2024 and all subsequent payments due and late charges shall be due in accordance with each taxing authority's schedule for both 3805 State Road bearing folio number 16-10-01561-00 and 0 State Road bearing folio number 16-10-01560-00.**
 - d. **This Stipulation does not include the 2024 taxes which must be paid directly to the taxing authorities. Failure to pay the 2024 taxes due on 3805 State Road bearing folio number 16-10-01561-00 and/or 0 State Road bearing folio number 16-10-01560-00 will be a breach of this Agreement.**
3. All payments made pursuant to the Stipulation shall be by cashier's check, certified check or money order made payable to The Delaware County Tax Claim Bureau, 201 West Front Street, Government Center Building, Media, Pennsylvania 19063-2708.
 4. If Debtor provides sufficient proof (by copies of checks or money orders) of payments made but not already credited, the account will be adjusted accordingly. Debtor's payment to the Delaware County Tax Claim Bureau which is subsequently returned due to insufficient funds in the account upon which the check is drawn, shall not constitute payment as the term is used in this Stipulation.
 5. The Parties agree that Movant is permitted to file amended claims, as set forth below, regardless of the deadline to file claims in the above referenced bankruptcy matter. The amended claims shall be as follows:
 - a. Movant shall file an Amended Proof of Claim for the 2018-2023 taxes, plus the costs set forth above, with the Court for 3805 State Road bearing folio number 16-10-01561-00 and an Amended Proof of Claim for the 2018-2023 real estate taxes, plus costs, regarding 0 State Road bearing folio number 16-10-01560-00.
 6. The Debtor shall:
 - a. Make a lump sum payment of \$199.00 on or before April 1, 2024; and
 - b. File an Amended Plan paying the Delaware County Tax Claim Bureau's Amended Proof of Claims, as described above, regarding the subject property, 3805 State Road bearing folio number 16-10-01561-00 and 0 State Road bearing folio number 16-10-01560-00, in full and with interest, within 14 days of Court approval of the Stipulation of Settlement.

Any payment due on a non-business day at the Delaware County Tax Claim Bureau, such as a weekend or holiday, will then be due on the next business day.

7. That Pennsylvania allows a tax claim bureau of a Second Class County to add nine percent (9%) interest on all delinquent real estate taxes turned over to the tax claim

bureau for collection until the taxes, fees and costs are paid in full. The application of the interest charge is authorized by Section 306 of the Real Estate Tax Sale Law, Act 542 of 1947 as amended. Codified at 72 P.S. §5860.101, *et seq.*

8. If Debtor fails to make any of the aforementioned payments or pay the real estate taxes due on the subject property in 2024 or any subsequent tax year then Movant shall send Debtor and Debtor's Counsel a written Notice of Default of the Stipulation. If the default is not cured within fourteen (14) days from the date of the Notice, counsel may file a Certification of Default with the Court and the Court shall enter an Order granting *in rem* relief from the Automatic Stay under §362 (d)(4).
9. In the event Debtor converts to a Chapter 7 during the pendency of this Bankruptcy case, Debtor shall cure all arrears within fourteen (14) days of the date of the conversion in order to bring Debtor's Real Estate Taxes current. Should Debtor fail to bring the Real Estate Taxes current, Movant shall send Debtor and Debtor's Counsel a written Notice of Default of the Stipulation. If the default is not cured within fourteen (14) days from the date of notice, counsel shall file a Certification of Default with the Court and the Court shall enter an Order granting *in rem* relief from the Automatic Stay under § 362 (d)(4).
10. Debtor agrees that if the Bankruptcy case is dismissed for any reason, the Movant shall be immediately granted *in rem* relief from the Automatic Stay pursuant to 11 U.S.C. §362 (d)(4). The parties agree that an Order dismissing the bankruptcy case shall be an order granting immediate relief from the Automatic Stay and Co-Debtor Stay. Upon request of Movant, the Court shall enter an Order granting Movant *in rem* relief from the Automatic Stay and Co-Debtor Stay pursuant to 11 U.S.C. §362.
11. Debtor agrees to provide counsel for Movant with a copy of any Motion to Dismiss the Bankruptcy filed by the Trustee or any other movant. Debtor further agrees that if the Bankruptcy case is dismissed for any reason, the Movant shall be granted *in rem* relief from the Automatic Stay pursuant to 11 U.S.C. §362 (d)(4). Upon request of Movant, the Court shall enter an Order granting Movant *in rem* relief from the Automatic Stay pursuant to 11 U.S.C. §362.
12. **THE PARTIES AGREE THAT IF RELIEF IS GRANTED TO MOVANT, NO FUTURE BANKRUPTCY CASE FILED BY ANY PARTY WITHIN 24 MONTHS OF THE DATE OF RELIEF SHALL ACT AS AN AUTOMATIC STAY AS TO THE SUBJECT PROPERTY AND THE DELAWARE COUNTY TAX CLAIM BUREAU UNLESS THE DEBTOR IN THAT SUBSEQUENT CASE OBTAINS A FURTHER ORDER OF THIS COURT, BASED UPON CHANGED CIRCUMSTANCES OR FOR GOOD CAUSE SHOWN.**
13. That in the event of Default of this Stipulation, it is specifically agreed that the Stay provided by Bankruptcy Rule 4001(a)(3) is expressly waived by the Debtor. The Stay provided by Bankruptcy Rule 4001(a)(3) being waived, the Movant may immediately

enforce and implement this Order.

14. The parties agree that a facsimile signature shall be considered an original signature.

Respectfully submitted,

Dated: 4/9/24

BY: Stephen V. Bottiglieri
Stephen V. Bottiglieri, Esquire
Attorney for Movant

Dated: 3/18/24

BY: Brad J. Sadek
Brad J. Sadek, Esquire
Attorney for Debtor

Dated: 4/2/2024

BY: John L. Smith
John L. Smith, Debtor

Dated: 4/2/2024

BY: Ivi Linn Robinson
Ivi Linn Robinson, Non-Filing Co-Debtor

**WITHOUT PREJUDICE TO ANY RIGHTS AND
REMEDIES OF THE CHAPTER 13 TRUSTEE**

Dated: April 18, 2024

BY: /s/ LeeAne O. Huggins
Kenneth E. West, Chapter 13 Trustee